

House File 13 - Introduced

HOUSE FILE 13

BY OLSON

A BILL FOR

1 An Act relating to an application for and the issuance of a
2 search warrant by electronic means.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321J.10, subsection 3, unnumbered
2 paragraph 1, Code 2017, is amended to read as follows:
3 ~~Notwithstanding section 808.3, the~~ The issuance of a search
4 warrant under this section may be issued as provided in chapter
5 808. However, a search warrant under this section may also
6 be issued based upon sworn oral testimony communicated by
7 telephone if the magistrate who is asked to issue the warrant
8 is satisfied that the circumstances make it reasonable to
9 dispense with a written affidavit. The following shall then
10 apply:

11 Sec. 2. Section 462A.14D, subsection 3, unnumbered
12 paragraph 1, Code 2017, is amended to read as follows:
13 ~~Notwithstanding section 808.3, the~~ The issuance of a search
14 warrant under this section may be issued as provided in chapter
15 808. However, a search warrant under this section may also
16 be issued based upon sworn oral testimony communicated by
17 telephone if the magistrate who is asked to issue the warrant
18 is satisfied that the circumstances make it reasonable to
19 dispense with a written affidavit. The following shall then
20 apply:

21 Sec. 3. Section 602.1614, subsection 3, Code 2017, is
22 amended by adding the following new paragraph:

23 NEW PARAGRAPH. *Om.* Establishing processes and procedures
24 for an application for and the issuance of a search warrant
25 under chapter 808 by electronic means.

26 Sec. 4. Section 808.3, Code 2017, is amended to read as
27 follows:

28 **808.3 Application for search warrant.**

29 1. A person may make application for the issuance of a
30 search warrant by submitting before a magistrate a written
31 application, supported by the person's oath or affirmation,
32 which includes facts, information, and circumstances tending
33 to establish sufficient grounds for granting the application,
34 and probable cause for believing that the grounds exist. The
35 application shall describe the person, place, or thing to

1 be searched and the property to be seized with sufficient
2 specificity to enable an independent reasonable person with
3 reasonable effort to ascertain and identify the person,
4 place, or thing. If the magistrate issues the search warrant,
5 the magistrate shall endorse on the application the name
6 and address of all persons upon whose sworn testimony the
7 magistrate relied to issue the warrant together with the
8 abstract of each witness' testimony, or the witness' affidavit.
9 However, if the grounds for issuance are supplied by an
10 informant, the magistrate shall identify only the peace officer
11 to whom the information was given. The application or sworn
12 testimony supplied in support of the application must establish
13 the credibility of the informant or the credibility of the
14 information given by the informant. The magistrate may in
15 the magistrate's discretion require that a witness upon whom
16 the applicant relies for information appear personally and be
17 examined concerning the information.

18 2. An application for the issuance of a search warrant
19 pursuant to this section may be submitted electronically
20 subject to the processes and procedures established by the
21 judicial branch.

22 Sec. 5. Section 808.4, Code 2017, is amended to read as
23 follows:

24 **808.4 Issuance.**

25 1. Upon a finding of probable cause for grounds to issue a
26 search warrant, the magistrate shall issue a warrant, signed by
27 the magistrate with the magistrate's name of office, directed
28 to any peace officer, commanding that peace officer forthwith
29 to search the named person, place, or thing within the state
30 for the property specified, and to bring any property seized
31 before the magistrate.

32 2. A search warrant issued pursuant to this section may be
33 issued electronically subject to the processes and procedures
34 established by the judicial branch.

35 Sec. 6. Section 808.4A, Code 2017, is amended by adding the

1 following new subsection:

2 NEW SUBSECTION. 4. A search warrant issued pursuant to this
3 section may be issued electronically subject to the processes
4 and procedures established by the judicial branch.

5 Sec. 7. Section 808.14, Code 2017, is amended to read as
6 follows:

7 **808.14 Administrative warrants.**

8 1. The courts and other appropriate agencies of the judicial
9 branch of the government of this state may issue administrative
10 search warrants, in accordance with the statutory and common
11 law requirements for the issuance of such warrants, to all
12 governmental agencies or bodies expressly or impliedly provided
13 with statutory or constitutional home rule authority for
14 inspections to the extent necessary for the agency or body to
15 carry out such authority, to be executed or otherwise carried
16 out by an officer or employee of the agency or body.

17 2. An administrative search warrant issued pursuant to this
18 section may be issued electronically subject to the processes
19 and procedures established by the judicial branch.

20 Sec. 8. Section 808B.5, subsection 1, unnumbered paragraph
21 1, Code 2017, is amended to read as follows:

22 An application for an order authorizing or approving the
23 interception of a wire, oral, or electronic communication ~~shall~~
24 may be made in writing upon oath or affirmation to a court and
25 shall state the applicant's authority to make the application.
26 An application may be made electronically pursuant to this
27 section subject to the processes and procedures established
28 by the judicial branch. An application shall include the
29 following information:

30 Sec. 9. Section 808B.11, subsection 1, unnumbered paragraph
31 1, Code 2017, is amended to read as follows:

32 An application for an order or an extension of an order
33 authorizing or approving the installation and use of a pen
34 register or a trap and trace device ~~shall~~ may be made in
35 writing by a prosecuting attorney upon oath or affirmation to

1 a district court. An application may be made electronically
2 pursuant to this section subject to the processes and
3 procedures established by the judicial branch. Only a special
4 state agent may conduct an investigation authorized under this
5 section or [section 808B.12](#). An application shall include the
6 following information:

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with
9 the explanation's substance by the members of the general assembly.

10 This bill relates to an application for and the issuance of a
11 search warrant by electronic means.

12 The bill allows the judicial branch to establish processes
13 and procedures that allow for the application for and the
14 issuance of a search warrant by electronic means under Code
15 sections 321J.10 (operating a motor vehicle while intoxicated),
16 462A.14D (operating a motorboat or sailboat while intoxicated),
17 808.3 (application for a search warrant), 808.4 (issuance of
18 a search warrant), 808.4A (application and issuance of search
19 warrant — global positioning device), 808.14 (administrative
20 warrants), 808B.5 (application for an order authorizing or
21 approving the interception of a wire, oral, or electronic
22 communication), and 808B.11 (application and order to install
23 and use a pen register or trap and trace device).